United Nations A/HRC/29/NGO/112

General Assembly

Distr.: General
11 June 2015

English only

Human Rights Council
Twenty-ninth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-09526 (E)
1509526

Please recycle

Qatar: End flawed practices in the administration of justice

Amnesty International shares concerns relating to the administration of justice highlighted in the March 2015 report of the Special Rapporteur on the Independence of Judges and Lawyers, Ms. Gabriela Knaul, on her mission to Qatar.[1]

Amnesty International has recorded instances of human rights violations in the administration of justice in Qatar and draws attention, below, to several emblematic cases.

VAGUE FORMULATION OF CRIMINAL OFFENCES USED TO CRIMINALISE FREE EXPRESSION

The government arrested Qatari poet Mohammad al-'Ajami in November 2011 in connection with a poem he wrote. The government asserted that the poem sought 'to overthrow the ruling system' and 'insulted' the Amir. The authorities prosecuted al-'Ajami on the basis of Articles 134 and 136 of the Penal Code. The former provides for a maximum of five years' imprisonment for "*challeng[ing] by any public means the exercise by the Emir of his rights or authorities or criticiz[ing] him.*" The latter provides for life imprisonment for "overthrow" of the government.

Amnesty International believes that the legal basis of the case against al-'Ajami rests on vaguely worded provisions and is incompatible with respect for the right to freedom of expression. It is contrary to the principle of legal certainty and the applicable penal provisions are open, as in this case, to misuse by authorities to penalise legitimate peaceful exercise of human rights.

PROLONGED PRE-TRIAL DETENTION, TORTURE AND ILL-TREATMENT

Following his arrest on 16 November 2011, al-'Ajami was held in solitary confinement. He had access only to his lawyer for three months before he was allowed visits from his family. Throughout the pre-trial investigations the government held him in solitary confinement in a very small cell.

While in solitary confinement, interrogators forced him to sign a document that was relied on to obtain his conviction, stating that he recited the poem in a public place. He asserted that this was not true.

Al-'Ajami continued to be held in solitary confinement until May 2012, six months after his arrest. In response to complaints from his lawyer, the state prosecutor stated that he would be kept in isolation until the judgement was delivered.

The *period of* al-'Ajami's pre-trial detention without charge exceeded that allowed by Qatar's own laws. Qatar's 2002 Law on the Protection of Society and the 2004 Code of Criminal Procedures set out a hierarchy of detention periods, neither of which exceeds six months, save in exceptional circumstances. While the case was based on the recitation of a poem, it was dealt with as a matter of national security. Even on this basis, the detention of al-'Ajami exceeded the provisions set out in the 2004 Law on Combatting Terrorism.

Formal trial proceedings commenced in March 2012, but the authorities did not set out the charges against al-'Ajami until 21 June 2012.

On 7 April 2010, the government arrested Ronaldo Lopez Ulep, a Filipino migrant worker and former civilian employee of the Qatari air force. They held him for one month in incommunicado detention before letting his family know of his whereabouts.

[1] A/HRC/29/26/Add.1

The government has not replied to Amnesty International letters of September 2014 and January 2015 seeking information on the case. It did not rebut allegations that officials tortured and ill-treated him during the first eight months of his detention. Allegations of torture include that officials burned cigarettes into the skin on his back and legs during two interrogation session and that they stripped him naked and forced him to crawl on his knees until they bled, during which time officials punched and kicked him.

The government did not refute Amnesty International's findings that Qatari officials forced Lopez Ulep to sign a document in Arabic – which he could not read – that was used in court as a 'confession'. Government officials deprived him of sleep and held him for prolonged periods with his arms tied behind his back. He was held in solitary confinement at the State Security Bureau in Doha for four years. Two other Filipino nationals are involved in this case and are reported to have faced similar ill-treatment and unfair proceedings; one of these men has been sentenced to death.

On 31 August 2014, after several days of surveillance, the Qatari security services arrested, Krishna Pasad Upadhyaya, aged 52, and Ghimire Gundeve, 36 United Kingdom nationals and human rights defenders who were conducting research into the working conditions of mainly Nepalese workers in Qatar.

The authorities did not inform them why they were arrested. They denied the men access to legal and consular representation until 6 September. The two men left Qatar on 9 September 2014. The authorities never charged them. Phones and equipment confiscated from the men were never returned.

Amnesty International fears that the conduct of the authorities in the case of Krishna Pasad Upadhyaya and Ghimire Gundeve as well as Ronaldo Lopez Ulep suggest a discriminatory approach towards the men, who are not Qatari that echoes paragraphs 43-45 of the report of the Special Rapporteur.

DUE PROCESS AND UNFAIR TRIAL

Reflecting concerns expressed in section A1 of the Special Rapporteur's report (paras 35-38), in the case of Mohammad al-'Ajami the court did not adhere to the principle of separation of powers between the investigative and adjudicative functions: the investigating magistrate served as presiding judge. At the outset of the trial, al-'Ajami's lawyer requested that the presiding judge exclude himself from the case in line with Articles 214 and 232 of the Qatari Code of Criminal Procedure (Law No. 23 of 2004), but the judge rejected the request.

In June 2012, the presiding judge ruled that the subsequent sessions would be held *in camera*. Article 187 of the Code of Criminal Procedure provides for such hearings by order of the court or on request of the litigants, but as this case was based on a publicly available poem, Amnesty International believes that the decision was flawed and politically motivated.

Al-'Ajami's lawyer's objections were rejected. In private audience after the court session, the presiding judge assured the defence lawyer that the next court session would be open. This did not happen.

In July 2012 the court appointed another lawyer in place of the lawyer al-'Ajami had chosen to represent him. The replacement told the court that he was unwilling to represent the accused and that the lawyer whom the court replaced "was his rightful lawyer". At the 10 October 2012 session, the presiding judge confirmed the exclusion of the chosen lawyer.

In October, the government prevented al-'Ajami from attending his own trial during the last trial hearing, and he was not told on which day the court would deliver the verdict.

On the day of the verdict, in November 2012, the prison authorities did not bring al-'Ajami to court. Nevertheless, the judge announced to the court that the accused was present when sentenced to life imprisonment. In February 2013, an appeal court reduced the sentence to 15 years imprisonment.

On account of the lack of separation of investigative and adjudicative powers, the secrecy imposed upon the court proceedings and the imposition of ineffectual legal representation, Amnesty International concludes that al-'Ajami's trial was flagrantly unfair.

The organization considers Mohammad al-'Ajami to be a prisoner of conscience who has been tried and imprisoned solely because of his peaceful exercise of the right to freedom of expression. Amnesty International calls for his immediate and unconditional release.

As noted above, in the case of Ronaldo Lopez Ulep, the government did not refute Amnesty International's information that during his interrogation he was tortured and forced to sign a document in Arabic – which he could not read – that the government used in court as a 'confession'. The court did not to investigate Lopez Ulep's claim that he was tortured. The court sentenced Lopez Ulep to life imprisonment.

During an appeal court hearing in May 2014, the court failed to provide Lopez Ulep with any translation of proceedings. The appeal court ruling is scheduled for 31 May 2015.

Amnesty International urges the authorities to ensure that Lopez Ulep's allegations of torture are independently and impartially investigated. The authorities must either release him or re-try him in proceedings that fully conform to international fair trial standards and exclude from proceedings statements extracted through torture and other ill-treatment.

Amnesty International urges the government to:

- Act on:
- recommendations and its commitments arising from the 2014 Universal Periodic Review examination of Qatar (UPR);
- the concluding observations by the Committee on the Elimination of Discrimination against Women following consideration of Qatar's 2014 periodic report;, and
- the concluding observations by the Committee against Torture following consideration of Qatar's 2013 periodic report.
- Ratify the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, further to recommendations accepted by Qatar during the UPR;
- Release all prisoners of conscience;
- Conduct independent and impartial enquiries into allegations of torture, such as in the case of Ronaldo Lopez Ulep, and bring to justice in a fair trial anyone suspected of having committed torture; and

Review the basis for prosecution in cases reliant on evidence obtained from torture.